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## NEWSLETTER

AUGUST, 2025

### ARBITRATION LAWS

#### DELHI HIGH COURT HOLDS WHATSAPP & EMAIL COMMUNICATIONS CAN FORM VALID ARBITRATION AGREEMENT

**CASE TITLE:** Vedanta Ltd. v. Gujarat State Petroleum Corporation Ltd.

**DIARY DETAILS:** Petition under Section 11(6) of the Arbitration & Conciliation Act, 1996; Judgment dated 28 July 2025

- **Case Background:** Vedanta, operator of a Rajasthan gas block, invited bids via e-auction under an RFP containing a draft Gas Sales Agreement (GSA) with an arbitration clause. GSPC, after uploading a signed GSA and other bid forms for technical qualification, emerged as the highest volume bidder on 18 Jan 2023. Vedanta sent a filled and signed GSA for countersignature; despite repeated reminders, GSPC did not sign, citing adverse market changes. Vedanta invoked arbitration; GSPC denied existence of a binding agreement.
- **Petitioner's Claims:** The bid process fixed price/volume; GSPC had

confirmed understanding and acceptance of the GSA terms (via Forms C1 & C6). Under Section 7(4)(b), email and electronic exchanges constitute a written arbitration agreement even if formal execution is pending.

- **Respondent's Position:** No concluded GSA existed; uploading a signed draft was only for technical evaluation. Execution of a definitive GSA was a mandatory step under the RFP and government guidelines; without it, no arbitration agreement arose.
- **Court's Findings:**
  - **Existence of Arbitration Agreement:** Applying *Trimex International* and *Cox & Kings*, Section 7(4)(b) covers electronic exchanges showing consensus. Here, bids, allocation, filled GSA sent for signature, and Forms C1 & C6 showed in-principle agreement to the GSA (and its arbitration clause). Mere lack of countersignature did not negate existence.
  - **Scope under Section 11(6A):** Referral court's role is limited to prima facie

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existence; substantive validity is for the tribunal.

- **Outcome:** Petition allowed; Justice L.N. Rao (Petitioner’s nominee) and Justice Ravinder P. Bhatt (Respondent’s nominee) appointed as arbitrators to constitute the tribunal. Judgment affirms that even without formal signature, RFP participation and subsequent electronic communications can create a binding arbitration agreement under Section 7(4)(b).

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### CALCUTTA HIGH COURT SETS ASIDE SECTION 34 ORDER FOR LACK OF JURISDICTION

**CASE TITLE:** Garden Reach Shipbuilders & Engineers Ltd. v. Marine Craft Engineers Pvt. Ltd.

**DIARY DETAILS:** Appeal under Section 37 of the Arbitration & Conciliation Act, 1996; Judgment dated 5 August 2024

- **Case Background:** Garden Reach challenged a 5 April 2023 order passed in its Section 34 petition seeking to set aside an arbitral award in favour of

Marine Craft. The order had dismissed the petition on merits. Garden Reach appealed under Section 37, contending that the order was without jurisdiction as the judge who decided the matter was not vested with determination over commercial arbitration cases under the High Court roster at the relevant time.

- **Appellant’s Claims:** The dispute fell under the Commercial Courts Act, 2015. On the date of hearing and decision, only a designated judge in the Commercial Division could hear such matters. Passing orders outside the rostered jurisdiction rendered the decision a nullity.
- **Respondent’s Position:** The order should stand as the matter had been contested and decided on merits; roster allocation was an internal arrangement and did not affect the validity of the judgment.
- **Court’s Findings:**
  - **Jurisdictional Defect:** Relying on Supreme Court precedent, the Bench held that roster allocation is binding, and a judge lacking determination over commercial

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arbitration matters cannot assume jurisdiction. Orders passed in such circumstances are void ab initio.

- **Effect:** Since the defect was incurable, the Court refrained from entering into the merits of the dispute.

– **Outcome:** Appeal allowed; the 5 April 2023 order set aside. The matter was directed to be placed before the appropriate Commercial Division Bench for fresh hearing, with all issues left open

### INSOLVENCY LAWS

#### NCLT CHENNAI REJECTS SECTION 9 PETITION FOR CLUBBING SEPARATE PROJECT & SISTER-CONCERN CLAIMS TO MEET ₹1 CRORE THRESHOLD

**CASE TITLE:** Suraksha Group of Companies v. ETA Engineering Pvt. Ltd.

**DIARY DETAILS:** Petition under Section 9 of the Insolvency & Bankruptcy Code, 2016; Judgment dated 11 July 2025

- **Case Background:** Suraksha Group, a sole proprietorship, provided security services to ETA Engineering at multiple sites under separate work orders between 2013–2020. Claiming unpaid dues of ₹1.45 crore (including 18% interest) from December 2019, it issued demand notices in June 2021 and April 2022. The latter notice included amounts owed to its sister concern, Suraksha Guard Services. ETA disputed liability, objecting to claim aggregation.
- **Petitioner's Claims:** The operational debt arose from continuous business with consolidated ledgers maintained internally. Despite site-specific accounts for transparency, services formed a single contractual relationship. Limitation was saved by COVID-19 exclusion orders. ETA acknowledged dues in a 2019 meeting and partially paid.
- **Respondent's Position:** Each work order was project-specific and an independent cause of action; many claims were time-barred. Aggregating claims from different projects and from another entity to cross the ₹1 crore

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threshold was impermissible. A joint Section 9 petition by multiple creditors is not maintainable.

- **Tribunal's Findings:**
    - **Project-wise Limitation:** Work orders and invoices showed separate project-specific contracts; limitation runs independently for each. Many claims were time-barred.
    - **Threshold Manipulation:** Petitioner clubbed claims of separate projects and of its sister concern to meet the statutory ₹1 crore threshold – not permissible under *Uttam Galva Steels* and *Yuvaraj Agarwal*.
    - **Maintainability:** Joint petitions by multiple operational creditors are barred; consolidation of unrelated claims is an afterthought.
  - **Outcome:** Petition dismissed; no costs. Tribunal reaffirmed that separate causes of action under distinct work orders cannot be clubbed, and multi-entity claims cannot be combined to invoke Section 9 IBC.
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### ELECTION LAW

#### RAJASTHAN HIGH COURT: STAYING ENTIRE KDCA ELECTION IS EXCEPTIONAL, NOT A FIRST RESORT

**CASE TITLE:** *Ameen Pathan S/o Shri Ameer Mohammed Pathan v. State of Rajasthan* (Jaipur Bench)

**DIARY DETAILS:** Connected writ petitions under Articles 226 (No. 4916/2025 and 5158/2025); Judgment dated 4 June 2025

- **Case Background:** The Registrar disqualified the existing Executive Committee of the Kota District Cricket Association (KDCA) via order on 24 January 2025, appointing an Ad hoc committee and directing elections within three months. KDCA filed an appeal under Section 35 of the Rajasthan Sports Act, 2005, which remains pending. Meanwhile, the Ad hoc committee scheduled elections for 8 April 2025. KDCA sought a stay on the

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election pending resolution of its appeal.

- **Petitioner's Claims:** KDCA argued the disqualification was procedurally unfair (violation of natural justice), as they received insufficient hearing and notice. They urged the court to stay the elections until the appeal is decided.
- **Respondents' Position:** The state and Ad hoc committee contended that, once announced, the electoral process should proceed undisturbed. KDCA's challenge came too close to the election date and proper statutory remedies were not exhausted.
- **Court's Findings:**
  - **Non-Interference with Elections:** Courts generally should not intervene in elections once the process has begun, except under extraordinary circumstances (e.g. natural disasters or flagrant unfairness).
  - **Delay in Judicial Recourse:** KDCA filed the writ just six days before the scheduled election, despite the appeal being pending. This approach

undermined the statutory appellate framework.

- **Merits to Be Heard Within Scheme:** While KDCA's substantive grievances would be considered by the appellate authority, the High Court should not pre-empt the democratic process.
- **Outcome:** The writ petition to vacate the election stayed was dismissed as not maintainable. The court directed the appellate authority to decide KDCA's appeal expeditiously, ideally within two months.

### BANKING LAWS

RAJASTHAN HIGH COURT  
REITERATES: DISTRICT  
MAGISTRATE'S ROLE UNDER  
SECTION 14 SARFAESI IS  
MINISTERIAL, NOT ADJUDICATORY

CASE TITLE: Sammaan Capital Ltd.  
(Formerly Indiabulls Housing Finance

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Ltd.) v. District Magistrate & District Collector, Kota & Ors

**DIARY DETAILS:** Writ Petition No. 10824/2025; Judgment dated 21 July 2025

- **Case Background:** Sammaan Capital approached the District Magistrate (DM), Kota under Section 14 of the SARFAESI Act, 2002, seeking assistance to take possession of secured assets. The DM allowed the application but added a condition: possession should not be taken if a dispute over title or possession arose, in which case the matter was to be remitted to the DM's court.
- **Petitioner's Claims:** The lender argued that the DM's role under Section 14 is purely ministerial—limited to verifying statutory compliance and ordering possession—not to decide or condition execution based on title or possession disputes.
- **Court's Findings:**
  - o **Ministerial Nature of Section 14:** Citing Supreme Court precedents (*NKGSB Cooperative Bank Ltd., R.D. Jain & Co.*), the Court reiterated

that a DM/CMM acts as an executing authority under Section 14, not as an adjudicator. Once compliance is verified, the DM must assist in taking possession within the statutory timeline.

- o **Excess of Jurisdiction:** By inserting a conditional clause halting possession in case of title/possession disputes, the DM exceeded statutory authority and contravened binding precedent.
- o **Prior Directions to Magistrates:** The Court recalled earlier orders (e.g., *J&K Bank Ltd. v. Trunks and Roots*) warning Magistrates not to “adventure” into interpreting Section 14 beyond its mandate.
- **Outcome:** The impugned condition in the DM's order was deleted; the writ petition was partly allowed. Directions issued to all Magistrates in Rajasthan to comply **strictly** with High Court and Supreme Court rulings on Section 14 SARFAESI.

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**NBA Legal** is a law firm offering a wide range of services to its clients in all spheres of law.

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The firm's practice is aimed at rendering well-conceived advice and strategies founded on legal, commercial that are receptive to the clients' needs.

The firm's clientele includes renowned corporate blue chips, notable public sector undertakings and NGO's.

The firm also assists private individuals who need avant-garde legal advice. It assists its clients in litigation before all judicial and quasi-judicial forums, international and domestic arbitration and dispute resolution, corporate legal advice, establishment of companies (including obtaining requisite permissions and licences), investments, property development and real estate due diligence, infrastructure, hospitality and entertainment, insurance laws, intellectual property, consumer protection and labour laws.



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